UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TOEHL HARDING,

Plaintiff,

– against –

DAVID NASEMAN,

Defendant.

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Hon. Robert P. Patterson

07-CV-08767 (RPP)

DECLARATION OF PETER B. SCHALK

I, Peter B. Schalk, declare as follows:

1. I am a Principal of Judd Burstein, P.C. ("JBPC"), attorneys for Plaintiff Toehl Harding ("Harding" or "Plaintiff"), in the above-captioned action. I submit this Declaration in support of Plaintiff's motion to dismiss the counterclaim of Defendant David Naseman ("Naseman" or "Defendant") in so far as it seeks attorneys' fees, pursuant to Fed. R. Civ. P. 12(c), together with such other and further relief as this Court deems just and proper.

2. I make this declaration based upon personal knowledge.

3. The purpose of this declaration is to place relevant exhibits before the Court.

4. Ex. A hereto is a true and accurate copy of the Property Settlement Agreement by and between David Naseman and Toehl Harding, dated May 1993, that is at issue in this litigation.

5. Ex. B hereto is a true and accurate copy of Plaintiff's First Amended Complaint filed in this action, dated January 12, 2007.

6. Ex. C hereto is a true and accurate copy of the Docket for *Harding v. Naseman*, in the United States District Court, District of Nevada, No. 3:07-cv-0072-LRH-VPC.

7. Ex. D hereto is a true and accurate copy of Defendant's Answer and Counterclaim filed in this action, dated December 7, 2007.

8. Ex. E hereto is a true and accurate copy of Plaintiff's Reply to Counterclaim, filed January 2, 2008.

9. Ex. F hereto is a true and accurate copy of relevant excerpts from Plaintiff's Memorandum of Law in opposition to Defendant's motion for summary judgment.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 1st day of August, 2008, in New York County, New York.

PETER B. SCHALK